



WILMERHALE

January 31, 2013

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VIA EMAIL

The Honorable Paul A. Crotty
U.S. District Court, Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
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Re: *Residents for Sane Trash Solutions, Inc., et al. v. United States Army Corps of Engineers, et al.*, 12-cv-8456 ("Sane Trash")

Dear Judge Crotty:

I write on behalf of the plaintiffs in *Sane Trash* to respond to the January 28, 2013 letter from Assistant Corporation Counsel Carrie Noteboom requesting a pre-motion conference for a proposed motion by the City defendants to dismiss in part the complaints in *Sane Trash* and the related case *Kellner, et al. v. U.S. Army Corp of Engineers, et al.*, 12-cv-8458. We are also in receipt of the answer filed in this case by Assistant United States Attorney Christopher Connolly on behalf of the federal defendants on January 29, 2013.

Under Rule 15(a)(1)(B), Fed. R. Civ. P., the Corps' answer triggers a 21-day period in which plaintiffs are entitled to amend their complaint "as a matter of course" if they have not previously amended their complaint. Plaintiffs in this action have not previously amended their complaint, and therefore may do so within the 21-day period that ends on February 19, 2013. Plaintiffs have decided to avail themselves of this right and to e-file an amended complaint by that date. We understand that the plaintiffs in *Kellner* intend to amend their complaint.

We therefore suggest that the Court not take any action at this time on the letter submitted by Ms. Noteboom. Once the amended complaint has been e-filed in *Sane Trash*, if the City defendants wish to make a motion addressed to it and so advise the Court and us, we would be pleased to respond to defendants' contentions by letter at that time. On the other hand, if the Court wishes us to respond now to the substance of Ms. Noteboom's letter, please so advise me, and we will do so promptly.

I also note that the U.S. Attorney's office has advised us that the federal defendants expect to file a motion for summary judgment in this case. If the Court felt it were most efficient for the parties to await that motion so that our response to all pre-motion requests could be made at the same time, we would be happy to follow that course.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles C. Platt". The signature is fluid and cursive, with the first name "Charles" written in a larger, more prominent script than the last name "Platt".

Charles C. Platt

cc: Christopher K. Connolly, Esq.
Carrie Noteboom, Esq.
Jeffrey L. Braun, Esq.
Karen L. Mintzer, Esq.
Kerri B. Folb, Esq.